

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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KASHNER DAVIDSON SECURITIES CORP., <i>et al.</i>	)	)
v.	)	Case No. 05-CV-11433-JLT
STEVEN MSCISZ, <i>et al.</i>	)	
	)	

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**DEFENDANTS' MOTION FOR  
APPROVAL OF SUPERSEDEAS BOND  
AND SUPPORTING MEMORANDUM**

Pursuant to Rule 8(a)(B) of the Federal Rules of Appellate Procedure, Rule 62(d) of the Federal Rules of Civil Procedure, and this Court's Local Rule 67.1(f), defendants/plaintiffs-in-counterclaim Steven Mscisz, Mark Mscisz and Lynda Mscisz (collectively "Customers") respectfully request that the Court (or its Clerk) approve the supersedeas bond (DE #31) they filed on January 3, 2007, thus effectuating an automatic stay of proceedings to enforce the judgment (DE #27) issued in the captioned action.<sup>1</sup>

The reasons (including citation of supporting authorities) why the motion should be granted are set forth in the next three paragraphs of this memorandum:

1. The Customers respect the Court and its ruling, but they nevertheless believe that the judgment resulted from reversible errors. Accordingly, the Customers filed a Notice of Appeal (DE #28) on December 22, 2006.

2. On December 29, 2006, the Customers procured a supersedeas bond (DE #31) in the amount fixed by Local Rule 62.2 (\$524,306.53), in the form specified by Local

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<sup>1</sup> This motion replaces Defendants' Emergency Motion for 7-Day Stay of Proceedings to Enforce Judgment (DE #30), which is hereby withdrawn as moot.

Rule 67.1(b), and secured in the manner specified by Local Rule 67.1(c)(2). Accordingly, the Customers' supersedeas bond may be approved by the Clerk. LR 67.1(f).

3. Approval of the supersedeas bond will effectuate an automatic stay of proceedings to enforce the judgment. FED. R. CIV. P. 62(d).

WHEREFORE, the Customers respectfully request that the Court allow this motion and approve their supersedeas bond.

STEVEN MSCISZ,  
MARK MSCISZ & LYNDA MSCISZ,

By their attorney,

*/s/ William P. Corbett, Jr.*

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William P. Corbett, Jr. (BBO #561201)  
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Dated: January 5, 2007

**LOCAL RULE 7.1(A)(2) CERTIFICATE**

I hereby certify that I conferred by telephone on this 5th day of January, 2007, with Marc Ross, Esquire, attorney for the plaintiffs/defendants-in-counterclaim (admitted *pro hac vice*), attempting in good faith to resolve or narrow the issues raised by this motion.

*/s/ William P. Corbett, Jr.*

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William P. Corbett, Jr.

**CERTIFICATE OF SERVICE**

Pursuant to Local Rules 5.4(c) and 5.2(b), I hereby certify that a true copy of this document, which is being filed with the Court through its ECF system, will be sent electronically to Howard M. Smith, Esquire, a registered ECF participant and attorney of record for the plaintiffs/defendants-in-counterclaim, on this 5th day of January, 2006.

*/s/ William P. Corbett, Jr.*

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William P. Corbett, Jr.